

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

BENNIE RAY WALLER, JR.

PLAINTIFF

V.

NO. 1:21-cv-00164-RP

LEE COUNTY, ET AL

DEFENDANT(S)

ORDER SETTING SPEARS HEARING

After reviewing the *pro se* complaint submitted by the plaintiff, it is

ORDERED:

1. No process will issue until after the *Spears* hearing which is **set for Tuesday, February 8, 2022 at 10:00 a.m. by video at 911 Jackson Avenue, Federal Building, Second Floor Courtroom, Oxford, Mississippi, before United States Magistrate Judge Roy Percy.**

2. The courtroom has video conference capability. The facility holding the plaintiff, whether a jail or MDOC, may transport the plaintiff to the federal courthouse or to any video conference facility within MDOC. The decision will be left to MDOC discretion in light of safety and budgetary concerns. The proceeding will be recorded by audio recording device. Witnesses will be sworn by the deputy clerk, who will be present in the courtroom.

3. The plaintiff may not propound discovery requests to the defendants until permitted to do so by the court.

4. If the plaintiff is awarded damages or other funds as a result of this litigation, whether by way of satisfaction of a judgment, compromise, settlement, or otherwise, the plaintiff will remain liable to the United States for the reimbursement of all court costs, fees and expenses which he has caused to be incurred in the course of this litigation, and the United States will have a lien against such damages or other moneys until the United States has been fully reimbursed for those court costs, fees and expenses by payment into the court under 28 U.S.C. §1915(d).

5. The plaintiff must acknowledge receipt of this order by signing the enclosed acknowledgment form and returning it to the court within 14 days of this date.

The plaintiff is warned that failure to keep the court informed of his current address may result in the dismissal of this lawsuit.

The plaintiff is also warned that his failure to comply with the requirements of this order may lead to the dismissal of this lawsuit under Rule 41(b), Federal Rules of Civil Procedure, for failure to prosecute and failure to comply with an order of the court.

THIS, the 22nd day of November, 2021.

/s/ Roy Percy

ROY PERCY

UNITED STATES MAGISTRATE JUDGE